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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FISH & RICHARDSON, PC 12390 EL CAMINO REAL SAN DIEGO, CA 92130-2081			EXAMINER CHUNG, JI YONG DAVID	
			ART UNIT 2143	PAPER NUMBER
DATE MAILED: 10/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/034,526	<b>Applicant(s)</b> MAGNUSSEN, ANDREAS	
	<b>Examiner</b> Ji-Yong D. Chung	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Remarks***

1. Applicant's arguments and amendments filed on May 25, 2005 have been carefully considered but they are deemed moot based on new ground of rejection, set forth below in the instant Office Action.

### ***Claim Rejections - 35 USC § 112***

2. **Claim 35** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35 refers to a "first agent" in claim 30. However, claim 30 has two first agents: a first network agent and a first processing agent. It cannot be determined which agent claim 35 refers to.

For the purpose of examination on the merits, claim 35 is deemed to refer to a first network agent.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. **Claims 1-4, 8-15, 19-23, 27-30, and 35-37** are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al (Brown hereinafter).

With reference to **claim 1**, Brown shows an apparatus for creating a system comprising:  
*a first network agent* [See protocol processing module (PPM) 266, Fig. 8. Each PPM is in the network of Fig. 8];

*a second network agent* [See TELNET PPSN in Fig. 8];

*a processing agent to process receive data, process a protocol in connection with the data, and transmit the data to the second network agent* [See PPM 250, Fig. 8. PPM 250 processes TELNET protocol and sends data to PPSN], *in which the processing agent also sends one or more events to the first network agent upon a change in the data being transmitted* [Telnet protocol is bidirectional; there is a return message (“event”) from a server, through the PPM 250, when it relays, to the server, newly transmitted data from the first agent (“upon a change in the data being transmitted”). Telnet server is inherent to any system in which a telnet client that is in operation].

With reference to **claim 2**, Brown shows *the first agent is configured to monitor the data being transmitted to and received from the processing agent* [See PPM X.25 in Fig. 8. Note that X.25 protocol deals with packet flow and monitoring.]

With reference to **claim 3**, Brown shows *an event system coupled to the processing agent*

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*to store the events in the event system.* Again, see lines 52-64, column 4. Messages are “events” and they are stored in a queue.

With reference to **claim 4**, Brown shows *that the first agent includes an algorithm for flow control for the connections.* See X.25 PPM in Fig. 8 and see Fig. 3. All connections and sockets in Brown have built in flow control.

With reference to **claim 8**, Brown does not directly show that *the events include at least one of an event type identification, a Transmission Control protocol (TCP) pointer, a controller handle, a controller length, and a controller prefetch.* However, Brown shows X.25 PPM that feeds inputs into Telnet PPM in Fig. 8. Each X.25 packet contains a packet header, which in turns contains a packet type identifier (“event type identification”).

With reference to **claim 9**, Brown does not directly show that *the data stored in the first agent includes a header and a data portion.* However, the feature is inherent in X.25 PPM in Brown. X.25 is a communication protocol, which transmits/receives packets. X.25 data packets contain a header and data portion.

With reference to **claim 10**, Brown does not show that *the event system includes an event queue writer for writing the events into an event queue.* However, means for reading (fetching) and writing (inserting/deleting) messages (“events”) from queue are inherent in any queuing

system.

**Claims 11-15, 19-23, and 27-29** substantively incorporate all or subsets of the limitations of claims 1-4 and 8-10, but in method form and in computer-product form, rather than in apparatus form. The reasons for the rejections of claims 1-4 and 8-10 apply to claims 11-15, 19-23, and 27-29. Therefore, claims 11-15, 19-23 and 27-29 are rejected for substantially the same reasons.

Claim 22 indicates that data travels from the first network agent to the second network agent through a processing agent. In the discussion of claim 1, such is the case. Data from the first network agent (soft block 266) passes through a processing agent (soft block 250) to the second network agent (TELNET PPSN).

With regard to **claim 30**, Brown shows:

*a first network agent to receive data packets from a server* [The first network agent is the soft block 250 in Fig. 8. Telnet port (client) communicates with a server, which is inherent in any system that supports telnet client.];

*a first processing agent to receive data packets, process a protocol in connection with the data packets, and transmit the data packets to a second network agent that is connected to a client* [First processing agent is soft block 266, it receives data packets and processes protocol in connection with the data packets. It transmits data packets to a second agent (soft block 258 in Fig. 8) that is connected to a client (Soft block 286)];

*the first processing agent to transmit one or more events to the first network agent, the one or more events including information about a processing of data packets* [In Fig. 8, processing agent (soft block 266) transmits messages (“events”) to soft block 250 (“first network agent”). X.25 is a protocol in which control information (about data transmission) about the data is transmitted within the data packets. Thus events (“messages”) contain information about “a processing of data packets”]

*wherein the first network agent controls transmission of data to the first processing agent at least in part based on the one or more events sent from the first processing agent.* In Fig. 8, first network agent controls the transmission of data to the first processing agent. Telnet port controls messages from the processing agent.

With reference to **claim 35**, Brown meets the limitation, the first agent is to *control a TCP receive window for performing flow control of the processing system*. The first agent, being TCP port, controls the “receive window” (duration of port open) for performing flow control.

With reference to **claim 36**, Brown shows its limitation, the system of claim 1 in *which the data comprises Transmission Control Protocol packets*. Data transmitted from the telnet port (soft block 250) shown in Fig. 8 is Transmission Control Protocol packets (TCP). Telnet protocol is based on TCP/IP.

With reference to **claim 37**, its limitations are broader version of claim 1. The reasons for the rejection of claim 1 apply to claim 37.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 5-7, 16-18, 24-26, and 31-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Generous et al (Generous hereinafter).

With reference to **claim 5**, Brown does not show *that the processing agent comprises a Secure Sockets Layer (SSL) system*. Generous discusses SSL protocol in paragraph 0844.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement SSL protocol shown in Generous to Brown.

The motivation for the combination is to increase security.

With reference to **claim 6**, Brown does not show *that the processing agent comprises a Server Load Balancing (SLB) system*. Generous discusses load balancing in paragraph 0994.

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace Brown's telnet PPM with a load balancing PPM module (along with other appreciate changes).



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The motivation for the combination is to decrease average client wait time, by distributing load over several processors.

With reference to **claim 7**, Brown does not show *that the processing agent comprises an Extended Markup Language (XML) system*. Generous discusses XML parser in paragraph 0086.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement XML parser as a PPM module by providing a wrapper code for DOM or SAX parsers.

The motivation for the combination is to provide XML document processing capability using Brown's programming system. Such implementation is desirable because XML is slowly becoming Internet document exchange standard and Brown's invention provides the flexibility in implementation of server modules (including XML).

**Claims 16-18 and 24-26** substantively incorporate all the limitations of claims 5-7, but in method form and in computer-product form, rather than in apparatus form. The reasons for the rejections of claims 5-7 apply to claims 16-18 and 24-26. Therefore, claims 16-18 and 24-26 are rejected for substantially the same reasons.

With regard to **claim 31**, Brown does not shows *a second processing agent*, in the context of claim 30. However, George shows a load balancer or SSL (as discussed in George) would meet the limitation.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to add a PPM to implement SSL. The motivation for the combination is to increase security in Brown's system.

With regard to **claim 32**, see the above discussion of claim 31. Both SSL PPM and telnet PPM would be considered "first processing agent."

With regard to **claim 33 and 34**, George shows load balancer or XML.

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a load balancer (as shown in George), to Brown's system created using PPMs.

The motivation for the combination is to increase the efficiency of the servers.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ji-Yong D. Chung whose telephone number is (571) 272-7988. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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